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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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VELOCITY2, LLC,

Plaintiff,

v.

SOVEREIGN EQUITY GROUP, INC., et al.,  
Defendants.

Case No. 1:11-CV-138 DN

**ORDER DISMISSING CASE**

District Judge David Nuffer

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Under the Federal Rules of Civil Procedure, a plaintiff “must serve a defendant with a summons and a copy of the complaint within 120 days after the filing of the complaint.”<sup>1</sup> If a defendant is not served within that time, “the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”<sup>2</sup>

On September 2, 2011, Plaintiff Velocity2, LLC filed this case asserting several claims including securities fraud. After 120 days had passed without service on the defendants, the court contacted Plaintiff’s counsel by e-mail on January 31, 2012, asking the status of the case and whether Plaintiff intended to proceed.<sup>3</sup> Counsel responded that he had been unable to locate and serve the defendants, but gave no information concerning his efforts to make service or any time frame when service might be accomplished.<sup>4</sup> Consequently, on February 9, 2012, the court issued an Order to Show Cause why the case should not be dismissed for failure to serve the defendants within 120 days of filing the complaint as required by the Federal Rules of Civil

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<sup>1</sup> *Sanders v. Southwestern Bell Tel.*, 544 F.3d 1101, 1110 (10<sup>th</sup> Cir. 2008); Fed. R. Civ. P. 4(m).

<sup>2</sup> Fed. R. Civ. P. 4(m); *Sanders*, 544 F.3d at 1110.

<sup>3</sup> Docket no. 6, filed February 8, 2012.

<sup>4</sup> *Id.*

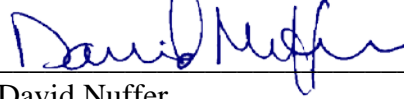
Procedure. Plaintiff was ordered to respond within 21 days from the date of the order by filing a statement describing the status of the case and intentions to proceed.<sup>5</sup> The order warned Plaintiff that failure to do so would result in dismissal of the case. To date, Plaintiff has failed to respond to the Order to Show Cause.

**ORDER**

The complaint is **DISMISSED** without prejudice under Fed. R. Civ. P. 4(m) for failure to timely serve the defendants.

Dated April 2, 2012.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>5</sup> Docket no. 7, filed February 9, 2012.